Jeev Raj vs. State of Rajasthan & Ors.
(S.B.C.Writ Petition No.7710/07)

Dated:- 29.11.2007.

HON'BLE MR.JUSTICE SANGEET LODHA

Mr.M.A.Siddiqui, for the petitioner.

This writ petition has been preferred by the petitioner seeking directions against the respondents State authorities, for removal of encroachment made by the respondent no.6 Shri Bhanwar Lal on the land comprising in Khasra No.793/7 village Bagar , Soorsagar, Jodhpur. The petitioner is also aggrieved by order dated 24.7.95(Annex.10) passed by the learned Board of Revenue, Ajmer,whereby the directions issued by the Additional Collector vide order dated 3.1.87 directing the sub-tenants of respondent no. 6 Shri Bhanwar Lal to pay the rent to the Tehsildar has been set aside.

The brief facts of the case are that the land ad measuring 23469 sq.ft. comprising Khasra no.793/5 was let out to the petitioner by the State Government through Tehsildar,Jodhpur vide rent note dated 13.4.73(Annex.1) for use as mining stock yard(Aakhli). A condition was incorporated in the rent note that the tenant Shri Bhanwar Lal shall not be entitled for raising any permanent construction over the land let out. It is stated that Shri Bhanwar Lal violating the condition incorporated in the rent note raised permanent construction and also encroached upon

the land part of the road and raised construction of a shop. The encroachment made was brought to the notice of Tehsildar, Jodhpur by Assistant Engineer, P.W.D., City Sub Division,Jodhpur vide communication dated 8.9.82. The petitioner also made a representation in this regard on 10.6.83 to the Tehsildar, U.I.T.,Jodhpur. The site was inspected by the Inspector , U.I.T.,Jodhpur and report was submitted to the effect that the respondent no. 6 has made encroachment on the land part of the road and has raised construction without permission. The allotment of the petitioner of the land covered by the rent note was cancelled vide order dated 18.9.84 passed by the Tehsildar,Jodhpur . An appeal preferred by the respondent no.6 aggrieved by order dated 18.9.84 passed by Tehsildar, Jodhpur was rejected by the Appellate Authority Additional Collector(Land Conversion), vide order dated 8.10.86. Thereafter,vide order dated 3.1.87, Additional District Collector,Jodhpur directed the Tehsildar to initiate proceedings u/s 145 Cr.P.C. and also directed that the sub-tenant shall not pay the rent to the respondent no.6 herein, and shall deposit the rent with Tehsildar,Jodhpur. Aggrieved by order dated 3.1.87 , the respondent no. 6 herein preferred an appeal before the Revenue Appellate Authority-II,Jodhpur. The appeal was rejected by the Appellate Authority vide order dated 2.4.91 holding that the so called order dated 3.1.87 is only an

administrative communication and no appeal is maintainable against the same. Aggrieved by order dated 2.4.91 passed by the Appellate Authority, the respondent no.6 herein preferred an appeal before the learned Board of Revenue . The learned Board of Revenue arrived at the finding that the Appellate Authority has erred in rejecting the appeal as not maintainable. After due consideration, the appeal preferred by the respondent no. 6 was partly allowed by the learned Board of Revenue and the directions issued by the Additional Collector, Jodhpur to the sub-tenants not to pay the rent to the respondent no. 6 were set aside.

It is true that the proceedings for cancellation of the allotment of the land made in favour of the respondent no. 6 were initiated by the authorities concerned on the representation made by the petitioner but it does not make entitle the petitioner to assail the validity of order passed by the Board of Revenue on an appeal preferred by the respondent no.6 against the State Government. Moreover, this Court is not inclined to entertain challenge to the order passed by the Board of Revenue after lapse of a period more than 12 years.

From the perusal of the various documents on record , it appears that the order of cancellation of the allotment of land made in favour of the petitioner has attained finality. If it is so, then there is no reason as to why the State Government should

not take appropriate proceedings against the respondent no.6 for taking possession of the land in question. It is expected that the State Government shall take immediate steps for implementation of the order dated 18.9.84 in accordance with law if the same has attained finality.

The writ petition stands disposed of with the observations indicated hereinabove.

(SANGEET LODHA),J.